

ASSEMBLY BILL

No. 1181

Introduced by Assembly Member Huber

February 27, 2009

An act to amend Sections 84203, 84204, and 84605 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1181, as introduced, Huber. Political Reform Act of 1974: statements and reports.

(1) The Political Reform Act of 1974 requires a candidate or committee that makes or receives a late contribution, or a committee that makes a late independent expenditure, to report the contribution or expenditure by specified means. The act requires the late contribution or the late independent expenditure to be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time the contribution or independent expenditure is made. The act also requires certain of these types of contributions and expenditures to be reported online.

This bill would provide that if a late contribution or late independent expenditure is required to be reported to the Secretary of State, the report to the Secretary of State shall be by online or electronic transmission only.

(2) The act requires that specified persons or entities periodically file reports online or electronically with the Secretary of State, including any general purpose committee that cumulatively has received contributions or made expenditures totaling \$50,000 or more, and any slate mailer organization with cumulative reportable payments received or made for purposes of producing slate mailers of \$50,000 or more.

The bill would delete these requirements and instead provide that a statement, report, or other document required to be filed with the Secretary of State pursuant to specified provisions of the act be filed with the Secretary of State by online or electronic transmission. The bill would provide that this provision does not apply to a statement of organization filed by a local committee. The bill would also provide that if a person files a report or other document, as specified, with the Secretary of State by online or electronic means, the person would also be required to file, in paper format, the original and one copy of that report or other document with the Secretary of State. The bill would provide that the paper original of the report or other document shall continue to be the official filing for audit and other legal purposes until the Secretary of State determines, subject to conditions established by the Secretary of State, that the online and electronic disclosure systems are operating securely and effectively. By imposing criminal penalties on filers who fail to comply with these requirements, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 84203 of the Government Code is
- 2 amended to read:
- 3 84203. (a) Each candidate or committee that makes or receives
- 4 a late contribution, as defined in Section 82036, shall report the
- 5 late contribution to each office with which the candidate or
- 6 committee is required to file its next campaign statement pursuant
- 7 to Section 84215. The candidate or committee that makes the late
- 8 contribution shall report his or her full name and street address

1 and the full name and street address of the person to whom the
2 late contribution has been made, the office sought if the recipient
3 is a candidate, or the ballot measure number or letter if the recipient
4 is a committee primarily formed to support or oppose a ballot
5 measure, and the date and amount of the late contribution. The
6 recipient of the late contribution shall report his or her full name
7 and street address, the date and amount of the late contribution,
8 and whether the contribution was made in the form of a loan. The
9 recipient shall also report the full name of the contributor, his or
10 her street address, occupation, and the name of his or her employer,
11 or if self-employed, the name of the business.

12 (b) A late contribution shall be reported by facsimile
13 transmission, guaranteed overnight delivery, or personal delivery
14 within 24 hours of the time it is made in the case of the candidate
15 or committee that makes the contribution and within 24 hours of
16 the time it is received in the case of the recipient. *If a late*
17 *contribution is required to be reported to the Secretary of State,*
18 *the report to the Secretary of State shall be by online or electronic*
19 *transmission only.* A late contribution shall be reported on
20 subsequent campaign statements without regard to reports filed
21 pursuant to this section.

22 (c) A late contribution need not be reported nor shall it be
23 deemed accepted if it is not cashed, negotiated, or deposited and
24 is returned to the contributor within 24 hours of its receipt.

25 (d) A report filed pursuant to this section shall be in addition to
26 any other campaign statement required to be filed by this chapter.

27 (e) The report required pursuant to this section is not required
28 to be filed by a candidate or committee that has disclosed the late
29 contribution pursuant to subdivision (a) or (b) of Section 85309.

30 SEC. 2. Section 84204 of the Government Code is amended
31 to read:

32 84204. (a) A committee that makes a late independent
33 expenditure, as defined in Section 82036.5, shall report the late
34 independent expenditure by facsimile transmission, guaranteed
35 overnight delivery, or personal delivery within 24 hours of the
36 time it is made. *If a late independent expenditure is required to be*
37 *reported to the Secretary of State, the report to the Secretary of*
38 *State shall be by online or electronic transmission only.* A late
39 independent expenditure shall be reported on subsequent campaign
40 statements without regard to reports filed pursuant to this section.

(b) A committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211; that is required to be reported with a late independent expenditure report by this subdivision; is required to be reported on more than one late independent expenditure report.

(c) A committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

(e) Expenditures that have been disclosed by candidates and committees pursuant to Section 85500 are not required to be disclosed pursuant to this section.

SEC. 3. Section 84605 of the Government Code is amended to read:

~~84605. Beginning on July 1, 2000, and for all applicable reporting periods thereafter, the following persons shall file online or electronically with the Secretary of State:~~

~~(a) Any candidate, including appellate court and Supreme Court candidates and officeholders, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100),~~

1 to file statements, reports, or other documents in connection with
2 a state elective office or state measure, provided that the total
3 cumulative reportable amount of contributions received,
4 expenditures made, loans made, or loans received is fifty thousand
5 dollars (\$50,000) or more. In determining the cumulative reportable
6 amount, all controlled committees, as defined by Section 82016,
7 shall be included. For a committee subject to this title prior to
8 January 1, 2000, the beginning date for calculating cumulative
9 totals is January 1, 2000. For a committee that is first subject to
10 this title on or after January 1, 2000, the beginning date for
11 calculating cumulative totals is the date the committee is first
12 subject to this title. A committee, as defined in subdivision (c) of
13 Section 82013, shall file online or electronically if it makes
14 contributions of fifty thousand dollars (\$50,000) or more in a
15 calendar year.

16 (b) Any general purpose committees, as defined in Section
17 82027.5, including the general purpose committees of political
18 parties, and small contributor committees, as defined in Section
19 85203, that cumulatively receive contributions or make
20 expenditures totaling fifty thousand dollars (\$50,000) or more to
21 support or oppose candidates for any elective state office or state
22 measure. For a committee subject to this title prior to January 1,
23 2000, the beginning date for calculating cumulative totals is
24 January 1, 2000. For a committee that first is subject to this title
25 on or after January 1, 2000, the beginning date for calculating
26 cumulative totals is the date the committee is first subject to this
27 title.

28 (c) Any slate mailer organization with cumulative reportable
29 payments received or made for the purposes of producing slate
30 mailers of fifty thousand dollars (\$50,000) or more. For a slate
31 mailer organization subject to this title prior to January 1, 2000,
32 the beginning date for calculating cumulative totals is January 1,
33 2000. For a slate mailer organization that first is subject to this
34 title on or after January 1, 2000, the beginning date for calculating
35 cumulative totals is the date the organization is first subject to this
36 title.

37 (d) Any lobbyist, lobbying firm, lobbyist employer or other
38 persons required, pursuant to Chapter 6 (commencing with Section
39 86100), to file statements, reports, or other documents, provided
40 that the total amount of any category of reportable payments,

1 expenses, contributions, gifts, or other items is five thousand dollars
2 (\$5,000) or more in a calendar quarter.

3 ~~(e) The Secretary of State shall also disclose on the Internet any~~
4 ~~late contribution or late independent expenditure report, as defined~~
5 ~~by Sections 84203 and 84204, respectively, not covered by~~
6 ~~subdivision (a), (b), or (c).~~

7 ~~(f) Committees and other persons that are not required to file~~
8 ~~online or electronically by this section may do so voluntarily.~~

9 ~~(g) Once a person or entity is required to file online or~~
10 ~~electronically, subject to subdivision (a), (b), (c), (d), or (f), the~~
11 ~~person or entity shall be required to file all subsequent reports~~
12 ~~online or electronically.~~
13 *(a) (1) Except as described in paragraph*
14 *(2), a statement, report, or other document required to be filed*
15 *with the Secretary of State pursuant to Chapter 4 (commencing*
16 *with Section 84100), Chapter 5 (commencing with Section 85100),*
17 *or Chapter 6 (commencing with Section 86100) shall be filed with*
18 *the Secretary of State by online or electronic transmission.*

19 *(2) This subdivision does not apply to a statement of*
20 *organization required to be filed by a local committee.*

21 ~~(h)~~

22 *(b) It shall be presumed that online or electronic filers file under*
23 *penalty of perjury.*

24 *(c) Except for filings in connection with a local office or a filing*
25 *made pursuant to Section 84203, 84204, 84204.5, 84220, 85309,*
26 *85310, or 85500, if a person files a report or other document*
27 *required by Chapter 4 (commencing with Section 84100) or*
28 *Chapter 5 (commencing with Section 85100) with the Secretary*
29 *of State by online or electronic means, the person shall also file,*
30 *in paper format, the original and one copy of that report or other*
31 *document with the Secretary of State. Each person who is required,*
32 *pursuant to Section 81004, to verify the contents of the report or*
33 *other document shall manually and personally sign the original*
34 *of the report or other document in ink. The original and copy of*
35 *the report shall contain all of the data set forth in the online or*
36 *electronic version of that report or other document. Except for*
37 *documents related to a local elective office filed by a candidate*
38 *for local elective office who is a candidate for elective state office,*
39 *a copy of a document filed with the Secretary of State by online*
40 *or electronic means shall not be filed with a local filing officer.*
The paper original of the report or other document shall remain

1 *the official filing for audit and other legal purposes until the*
2 *Secretary of State determines, pursuant to Section 84606 and*
3 *subject to conditions established by the Secretary of State, that the*
4 *online and electronic disclosure systems are operating securely*
5 *and effectively.*

6 ~~(i) Persons filing online or electronically shall also continue to~~
7 ~~file required disclosure statements and reports in paper format.~~
8 ~~The paper copy shall continue to be the official filing for audit and~~
9 ~~other legal purposes until the Secretary of State, pursuant to Section~~
10 ~~84606, determines the system is operating securely and effectively.~~

11 ~~(j)–~~
12 (d) The Secretary of State shall maintain at all times a secured,
13 official version of all original online and electronically filed
14 statements and reports required by this chapter. Upon determination
15 by the Secretary of State, pursuant to Section 84606, that the
16 system is operating securely and effectively, this online or
17 electronic version shall be the official version for audit and other
18 legal purposes.

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 SEC. 5. The Legislature finds and declares that this bill furthers
29 the purposes of the Political Reform Act of 1974 within the
30 meaning of subdivision (a) of Section 81012 of the Government
31 Code.